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9 **MICHAEL RAY HANLINE**

10 **UNITED STATES DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **WESTERN DIVISION**

13 **MICHAEL RAY HANLINE,**

14 Plaintiff,

15 v.

16 **COUNTY OF VENTURA;**
17 **OFFICE OF THE VENTURA**
18 **COUNTY DISTRICT**
19 **ATTORNEY;**

20 **VENTURA COUNTY**
21 **SHERIFF'S DEPARTMENT;**
22 **LOUIS SAMONSKY;**

23 **MARTIN McCOY;**
24 **and DOES 1-10 INCLUSIVE,**

25 Defendants.

) Case No.

) **COMPLAINT FOR DAMAGES**

) **(1) DEPRIVATION OF CIVIL**
) **RIGHTS, 42 U.S.C. § 1983, *BRADY***
) **VIOLATIONS;**

) **(2) JOINT ACTION/CONSPIRACY**
) **TO INTERFERE WITH CIVIL**
) **RIGHTS, 42 U.S.C. § 1985, *BRADY***
) **VIOLATIONS;**

) **(3) DEPRIVATION OF CIVIL**
) **RIGHTS, 42 U.S.C § 1983, FALSE**
) **EVIDENCE VIOLATIONS;**

) **(4) JOINT ACTION/CONSPIRACY**
) **TO INTERFERE WITH CIVIL**
) **RIGHTS, 42 U.S.C. § 1985, FALSE**
) **EVIDENCE VIOLATIONS;**

28) **(5) VIOLATION OF CIVIL RIGHTS,**

) 42 U.S.C § 1983, SUPERVISORIAL
) LIABILITY; and
)
) (6) DEPRIVATION OF CIVIL
) RIGHTS, 42 U.S.C. § 1983, *MONELL*
) VIOLATIONS
)
) DEMAND FOR JURY TRIAL

I.

JURISDICTION AND VENUE

1. This action is brought by Plaintiff MICHAEL RAY HANLINE ("Mr. Hanline" or "Plaintiff") pursuant to 42 U.S.C. §§ 1983 and 1985.
2. This Court has jurisdiction under 28 U.S.C. § 1343(4) for violations of the 1871 Civil Rights Enforcement Act, as amended, including 42 U.S.C. §§ 1983 and 1985, and under 28 U.S.C. § 1331.
3. The acts and omissions complained of herein commenced on November 10, 1978, and continued until April 22, 2015, within the Central District of California. Therefore, venue lies in this District pursuant to 28 U.S.C. § 1391.

II.

SUMMARY OF CLAIMS

4. On December 14, 1978, Ventura County Sheriff's Department employees arrested Michael Hanline for the murder of J.T. McGarry¹ and related charges occurring on November 10, 1978. Mr. Hanline was not involved in the murder and was innocent of all charges arising from the murder. Even so, he was convicted at trial in 1980 for the murder and sentenced to a term of life in prison without the possibility of parole.

¹McGarry's true name was Michael Mathers. Although this was an alias, court documents relating to this case refer to him as McGarry, and for clarity he will be referred to as McGarry throughout this Complaint.

- 1 5. On April 1, 1999, Mr. Hanline filed a Petition for Writ of Habeas Corpus in this
2 Court, claiming his rights under the Constitution had been violated, and asking
3 for his conviction to be reversed. On August 24, 2011, this Court denied the
4 Petition.
- 5 6. On January 24, 2014, Mr. Hanline filed a Petition for Writ of Habeas Corpus
6 in the Ventura County Superior Court, claiming his rights under the Constitution
7 had been violated, and asking for his conviction to be reversed.
- 8 7. On November 13, 2014, the Office of the Ventura County District Attorney
9 conceded the merits of the petition. That same day, Judge Donald D. Coleman
10 of the Ventura County Superior Court reversed Hanline's conviction and set the
11 case for retrial. On April 22, 2015, the Office of the Ventura County District
12 Attorney moved to dismiss all charges.
- 13 8. In conceding Mr. Hanline's petition to reverse his conviction, the Office of the
14 Ventura County District Attorney pointed to numerous exculpatory documents
15 which had been suppressed by both the Ventura County Sheriff's Department
16 and its own office. These documents—primarily investigation reports prepared
17 by Ventura County Sheriff's Department employee Martin McCoy, the lead
18 investigator in the case—showed that others had taken responsibility for the
19 murder before Mr. Hanline's conviction, that witnesses knew key facts of the
20 crime which were not known to the general public, and that these facts could not
21 have been known by those individuals without their direct involvement in the
22 crime.
- 23 9. In conceding the merits of Mr. Hanline's petition, the Office of the Ventura
24 County District Attorney agreed with the findings of Magistrate Judge Andrew
25 Wistrich of this Court, "who ultimately determined that there had been serious
26 discovery-related Constitutional violations" in the case. Response to Petition for
27 Writ of Habeas Corpus in *In re Michael Hanline*, Ventura County Superior
28 Court Case No. CR14566 ("Response"), p. 4. As Judge Wistrich noted, "[t]he

1 case against [Hanline] was far from overwhelming. It was entirely
2 circumstantial.” Response, p. 4, citing Report and Recommendation of
3 Magistrate Judge in *Michael Hanline v. George Galaza*, United States District
4 Court (Central District) Case No. EDCV 00-530-VAP (AJW) (“R&R”), p. 47.

5 10. The Office of the Ventura County District Attorney concluded that, after
6 reviewing the case and the claims Mr. Hanline made in his petition, the
7 circumstantial evidence in the case no longer supported Mr. Hanline’s
8 conviction.

9 11. Specifically, the Office of the Ventura County District Attorney determined that
10 had the suppressed documents—documents prepared by employees of the
11 Ventura County Sheriff’s Department, and suppressed by both the Ventura
12 County Sheriff’s Department and the Office of the Ventura County District
13 Attorney—been turned over to Mr. Hanline, he would have been able to
14 establish credible evidence that “other individuals had actually committed the
15 murder and were attempting to ‘frame’ [Hanline].” Response, p. 8. These
16 documents were never turned over to the defense, despite a court’s order to
17 Ventura County Sheriff’s Department Officer Martin McCoy to do so. The
18 District Attorney has admitted the court order “directed the prosecutor” to “turn
19 that information over to the defense. That never occurred.” Response, p. 8.

20 12. The failure to turn over these reports formed the basis for the magistrate judge’s
21 findings that *Brady* errors had been committed. In recommending Mr.
22 Hanline’s conviction should be reversed, the magistrate judge noted: “Despite
23 recognizing the importance of the evidence to the defense, and in spite of the
24 trial court’s order requiring the prosecutor to turn the evidence over to the
25 defense, both the prosecutor and McCoy failed to disclose the [suppressed
26 documents] to [Hanline].” R&R, p. 36. Indeed, the Office of the Ventura
27 County District Attorney has “concede[d] that failure to disclose [this evidence]
28 violated *Brady v. Maryland*.” Response, p. 4.

1 13. In addition, the Office of the Ventura County District Attorney admitted that
2 “[a]dditional evidence obtained after trial is contrary to the prosecution’s theory
3 upon which the guilty verdict was based.” Response, p. 2. This included the
4 exculpatory results of DNA testing, performed at the initiative of the District
5 Attorney in 2014 on a number of items of evidence. Response, pp. 2-3. The
6 results of this testing—on the tape used to bind the victim’s hands, and on other
7 items found at the scene—definitively “contradict[ed] the prosecution’s theory at
8 trial that [Hanline] and Messer committed the murder.” Response, p. 3.

9 14. Finally, in conceding to the petition, the Office of the Ventura County District
10 Attorney acknowledged it had

11 interviewed several individuals who were involved in the events
12 surrounding the murder of the victim. These interviews suggest
13 that persons other than [Hanline] also had motives and means to
14 kill the victim. These interviews, together with evidence from the
15 in camera hearings discussed above and the federal habeas
evidentiary hearing, also suggest that witnesses were manipulated
and threatened and discouraged from cooperating with the
prosecution or with the Innocence Project.

16 Response, p. 8.

17 15. Mr. Hanline spent more than thirty-six years in custody as a result of the
18 wrongful actions of the Office of the Ventura County District Attorney, the
19 Ventura County Sheriff’s Department, and named Defendants, Ventura County
20 Deputy District Attorney Louis Samonsky and Ventura County Sheriff’s
21 Department Officer Martin McCoy.

22 16. Under color of law, the Defendants subjected Mr. Hanline, or caused Mr.
23 Hanline to be subjected, to the deprivation of his Constitutional rights by framing
24 Mr. Hanline for the murder, withholding exculpatory evidence, disregarding or
25 suppressing evidence of third-party culpability, and concealing the true reason
26 McGarry was killed and the true perpetrators of the crime. This evidence, had
27 it been disclosed before trial, would have raised reasonable doubt as to his guilt.

28 17. Furthermore, and in the alternative, the wrongful actions of the Defendants stem

1 from a conspiracy between the Defendants—together with a private defense
2 attorney, Bruce Robertson—to frame Mr. Hanline for the murder, withhold
3 exculpatory evidence, disregard or suppress evidence of third-party culpability,
4 and conceal the true reason McGarry was killed and the true perpetrators of the
5 crime. This conspiracy arose out of the Defendants' desperation to convict Mr.
6 Hanline at any cost, and motivated Defendants to make a concerted effort to
7 steer the investigation toward one, false, conclusion: that Hanline had killed
8 McGarry.

9 18. In addition, the policies and customs of the Ventura County Sheriff's
10 Department ignored, circumvented, and/or rejected those office's obligations
11 under *Napue v. Illinois*, 360 U.S. 264 (1959); *Brady v. Maryland*, 373 U.S. 83
12 (1963), and *Giglio v. United States*, 405 U.S. 150 (1972), and thus directly
13 contributed to the violations of the rights of Mr. Hanline.

14 19. Further, the Ventura County Sheriff's Department failed to institute
15 administrative policies and practices necessary for ensuring that the office
16 complied with its obligations under *Napue v. Illinois*, *supra*, 360 U.S. 264; *Brady*
17 *v. Maryland*, *supra*, 373 U.S. 83; and *Giglio v. United States*, *supra*, 405 U.S.
18 150.

19 20. In addition, the policies and customs of the Office of the District Attorney for
20 the County of Ventura directly contributed to the violations of Mr. Hanline's
21 rights under *Napue v. Illinois*, *supra*, 360 U.S. 264; *Brady v. Maryland*, *supra*,
22 373 U.S. 83; and *Giglio v. United States*, *supra*, 405 U.S. 150.

23 21. Further, the Office of the District Attorney for the County of Ventura failed to
24 institute administrative policies and practices necessary for ensuring that the
25 office complied with its obligations under *Napue v. Illinois*, *supra*, 360 U.S. 264;
26 *Brady v. Maryland*, *supra*, 373 U.S. 83; and *Giglio v. United States*, *supra*, 405
27 U.S. 150.

28 22. As a result of these actions, inactions, policies, and failures, Mr. Hanline became,

1 through no fault of his own, the longest-serving wrongfully incarcerated individual
2 in California's history.

3 **III.**

4 **PARTIES**

5 23. Plaintiff Michael Hanline is a citizen of the State of California and the United
6 States, and resided within the State of California at all times herein alleged.

7 24. At all times relevant to this lawsuit, Defendant Martin McCoy was employed by
8 and working on behalf of the Ventura County Sheriff's Department, and resided
9 within the jurisdiction of the State of California. In his capacity as an employee
10 of the Ventura County Sheriff's Department, he was the lead investigator on the
11 investigation of the case against and in the prosecution of Mr. Hanline.
12 Defendant McCoy is also sued in his individual capacity.

13 25. At all times relevant to this lawsuit, Defendant Louis Samonsky was employed
14 by and working on behalf of the Office of the Ventura County District Attorney,
15 and resided within the jurisdiction of the State of California. In his capacity as
16 an employee of the Office of the Ventura County District Attorney, he was the
17 lead prosecutor in the prosecution of Mr. Hanline. Defendant Samonsky is also
18 sued in his individual capacity.

19 26. At all times herein, Defendant County of Ventura was a public entity, organized
20 and existing under the laws of the State of California. The Ventura County
21 Sheriff's Department was and is, at all times herein, an agency of the County of
22 Ventura.

23 27. At all times herein, Defendant Office of the District Attorney for the County of
24 Ventura was a public entity, organized and existing under the laws of the State of
25 California. The Office of the District Attorney for the County of Ventura was
26 and is, at all times herein, an agency of the County of Ventura.

27 28. Plaintiff Michael Hanline is informed, believes, and thereon alleges that
28 Defendants sued herein as Does 1 through 10, inclusive, were employees of the

1 Ventura County Sheriff's Department, and were at all relevant times acting in the
2 course of their employment and agency. Each Defendant is the agent of the
3 other. Mr. Hanline alleges that each of the Defendants named as a "Doe" was
4 in some manner responsible for the acts and omissions alleged herein, and
5 Plaintiff will seek leave of this Court to amend the Complaint to allege such
6 names and responsibility when that information is ascertained.

7 **IV.**

8 **GENERAL ALLEGATIONS**

9 29. Plaintiff is informed, believes, and thereon alleges, that, at all times herein
10 mentioned, each of the Defendants was acting under color of law to deprive Mr.
11 Hanline of his Constitutional rights.

12 30. In addition, and in the alternative, Plaintiff is informed, believes, and thereon
13 alleges, that, at all times herein mentioned, each of the Defendants was the agent
14 and/or employee and/or co-conspirator of each of the remaining Defendants,
15 and in doing the things hereinafter alleged, was acting under color of law, within
16 the scope of such agency, employment and/or conspiracy, and with the
17 permission and consent of other co-defendants.

18 31. Each paragraph of this Complaint is expressly incorporated into each cause of
19 action which is a part of this Complaint.

20 32. The acts and omissions of all Defendants were engaged in maliciously, callously,
21 oppressively, wantonly, recklessly, and with deliberate indifference to the rights
22 of Plaintiff Michael Hanline.

23 **V.**

24 **FACTUAL ALLEGATIONS**

25 **A. Background**

26 33. This claim arises from the investigation, prosecution, conviction, and
27 incarceration of Michael Ray Hanline for the murder of J.T. McGarry, who
28 disappeared on November 10, 1978, and whose body was found on November

1 12, 1978. Although Mr. Hanline was convicted and incarcerated for the murder,
2 he is innocent of the crime, and his conviction has been reversed.

3 34. Mr. Hanline spent the better part of his life wrongfully incarcerated for this
4 crime. He was in custody for over thirty-six years, from his arrest on December
5 14, 1978, to the dismissal of all charges against him on April 22, 2015.

6 35. Mr. Hanline served all of these years in custody in maximum security prisons
7 and was therefore subject to the severe limitations and indignities inherent in
8 such settings. Further, because of his sentence of life without the possibility of
9 parole, Mr. Hanline was subject to even more restrictions and fewer
10 opportunities while in prison. Mr. Hanline experienced the fear and anxiety of
11 being imprisoned with the State's most serious and violent offenders. More
12 fundamentally, Mr. Hanline lost his youth and the years during which he would
13 have worked and spent time with his family.

14 36. From his arrest and throughout his thirty-six years in custody, Mr. Hanline
15 proclaimed his innocence and relentlessly worked to procure his release by
16 showing that a miscarriage of justice occurred. In pursuit of relief, he filed
17 multiple pro se petitions for writs of habeas corpus at all levels of the California
18 state courts, and a petition for writ of habeas corpus in this Court, before
19 obtaining pro bono counsel to conduct further investigation and file the
20 successful petition which demonstrated his innocence.

21 37. Mr. Hanline's resilience and knowledge of his innocence allowed him to survive
22 and even be productive while in prison, but tragically, some of the best years of
23 his life were taken from him based on the unconstitutional acts of employees and
24 agents of the Ventura County Sheriff's Department and the Office of the
25 Ventura County District Attorney. He was deprived of the rights and privileges
26 our society holds most dear: freedom, justice, the ability to raise a family, pursue
27 a career, and pursue all of his other dreams.

B. Bruce Robertson, the Prosecution's Witnesses, and Ventura County Law Enforcement

38. Bruce Robertson was a criminal defense attorney in the County of Ventura, admitted to the State Bar in 1974. While a defense attorney, he represented a number of individuals from the motorcycle community in and around Ventura, including members of the Hells Angels motorcycle club and the Diablos motorcycle club.

39. Many of the individuals Robertson represented were persons of interest or witnesses in the McGarry murder case. Indeed, Robertson initially represented Mary Bischoff, the prosecution's "star witness," in connection with McGarry's murder. He also represented five other prosecution witnesses in connection with the case: Sterling Holt, witness "D,"² Dave Olson, Mike Gross, and Bonnie Mellinger. In addition, Robertson represented McGarry's estate and members of McGarry's family. He was also a witness for the prosecution in the case.

40. Mari Morsell was an employee of the Ventura County Public Defender's Office from 1975 to 1979. While employed there, Morsell attended a Christmas party at the home of Robertson. There, Morsell saw numerous police officers and sheriff's deputies using cocaine.

C. The Murder of J.T. McGarry

41. Before his death, J.T. McGarry was employed by Paisano Publications. His job was to attend motorcycle-oriented "swap meets" and promote one of Paisano's magazines, Easy Rider. McGarry eventually began to organize these swap meets all over the nation. McGarry received a percentage of the profits from such ventures. McGarry had an on again/off again relationship with Mary Bischoff, who would travel with him and keep the books for McGarry.

42. In January of 1977, Bischoff met Michael Hanline while he was working at a

²Certain names have been ordered redacted by this Court. See *Hanline v. Galaza*, Case No. EDCV 00-530-VAP(AJW).

1 booth at one such swap meet. Over the next few months, Hanline began to work
2 security at the gate for some of the larger swap meets. For about a year, Hanline,
3 Bischoff, and McGarry would travel around the country together to set up and
4 work these swap meets.

5 43. At some point before McGarry's death, both McGarry and Hanline became
6 romantically involved with Bischoff. In fact, although Bischoff kept a number
7 of her belongings at McGarry's house, she was staying with Hanline on
8 November 10, 1978, the night of McGarry's disappearance.

9 44. Bruce Robertson later claimed that, on November 10, 1978, he called
10 McGarry—whom he described as both his client and a personal friend—to discuss
11 the upcoming weekend. The line was busy, and eventually, Robertson learned
12 from an operator the phone was off the hook. Others who went to McGarry's
13 house that evening found it empty. McGarry did not return that evening.
14 Robertson later stated that based on this—and on no other—information, he
15 suspected McGarry had been murdered.

16 45. On November 12, 1978, law enforcement found McGarry's body with multiple
17 gunshot wounds to the chest and head near California Route 33, off of Matilija
18 Canyon and Wheeler Gorge. Ventura County Sheriff's Department Lieutenant
19 Harrison dispatched Officer Martin McCoy to Wheeler Gorge to investigate a
20 dead body, later identified as McGarry. McCoy arrived to find Ventura County
21 Sheriff's Department Officers Bryant, Harrison, Rogers, Rudd, and Smith, as
22 well as Ventura County Crime Laboratory employee Richard Fox, at the
23 location. Sheriff's investigators and Ventura County Medical Examiner
24 investigator Margot Martin took the body to the county morgue.

25 46. Investigators discovered duct tape around McGarry's right wrist. It appeared to
26 investigators that McGarry's hands had been bound earlier, indicating he may
27 have been shot first and later transported to where his body was found.

28 47. Investigators later learned that Bischoff and Hanline (with Hanline's later co-

defendant, Bo Messer) had driven over to McGarry's house in the early morning hours of November 12, 1978, before McGarry's body was discovered, and before anyone—with the exception of Bruce Robertson—suspected he had been murdered. Bischoff, Messer, and Hanline took a number of items from the house that Bischoff said belonged to her.

D. Robertson's Involvement in the Investigation and McCoy's Complicity

48. Robertson's office became a "base of operations" and "home away from home" for the law enforcement investigators tasked with investigating the McGarry murder. Ventura County Sheriff's Department Officers Martin McCoy and Richard Rodriguez were seen on a constant basis at Robertson's law office, and they frequently asked him to set up meetings and interview witnesses to further the investigation. They also showed Robertson confidential *Brady* material (discussed in section (F), post)—and gave him copies of the same—to get Robertson's assessment on the case.

49. Despite this constant presence at Robertson's office, investigators did not discover—or did not care—that Robertson was dealing drugs out of his office, and using drugs, specifically cocaine, at the time of the investigation.

50. Investigators also did not discover Robertson had a number of false-bottomed Pennzoil cans in his office containing cocaine. The same type of false-bottomed Pennzoil can was discovered at McGarry's house after the murder, further implicating Robertson in the crime.

51. According to Bruce Robertson's later interviews with police, and according to multiple witnesses, Robertson suspected McGarry was dead before the body had even been discovered. Within a few days of the murder, and at the behest of Robertson, Ventura County Sheriff's Department investigators, including Martin McCoy and Richard Rodriguez, focused their attention on Hanline.

52. McGarry had motorcycle boots on when his body was found, causing investigators to conclude he was a local biker. Because of this, on November 13,

1 1978, Ventura County Sheriff's Department Officers McCoy and Richard
2 Rodriguez took Polaroid photographs of the body and showed the Polaroids to
3 two witnesses at a Ventura County motorcycle shop. The witnesses identified the
4 person in the photographs as McGarry.

5 53. Thereafter, the officers returned to the morgue, and were told by unnamed
6 medical examiners that the cause of death was multiple gunshot wounds.

7 54. Upon leaving the morgue, Officers McCoy and Rodriguez learned Bruce
8 Robertson and McGarry's roommate, Sterling Holt (who was also a client of
9 Robertson), wished to discuss the murder with the investigators. Robertson told
10 the officers he was McGarry's attorney and that he had already gone to the
11 morgue to identify McGarry's body. Robertson also disclosed he had told
12 Sterling Holt that McGarry was missing "under unusual circumstances" a few
13 days before. Holt was apparently concerned enough by what Robertson had said
14 that he had flown down from Oregon, even before anyone (other than
15 Robertson) suspected McGarry was dead.³

16 55. On or about November 13, 1978, Ventura Police Department Officer S.
17 Rathburn received an anonymous call from an unidentified male; the caller
18 referenced the McGarry murder and told Rathburn to look into Bischoff if they
19 wanted to "know the truth about" the murder. Unnamed Ventura County
20 Sheriff's Department Officers received a similar call that week; this information
21 was passed on to Officers McCoy and Rodriguez.

22 56. In an undated report, but written close in time to the murder, Ventura County
23 Sheriff's Department Officer Martin McCoy documented how completely
24 investigators had turned over the investigation to Bruce Robertson, who should
25 have been one of their prime suspects;

27 ³Bruce Robertson later testified Holt had told him McGarry was dead. See paragraph
28 91, post.

1 Monday, November 13, I spoke with Attorney Robertson
2 who furnished the following information:

3 He says that he represents many dope and biker-type people
4 and that bikers, as a matter of ethics, would not talk to the police.
5 He said that [Bischoff] had split up with [McGarry] and had taken
6 up with another person (we believe "[Hanline]"), but that
7 [McGarry] had recently gotten back with [Bischoff]. Robertson
8 also said that his independent checks with various people had
9 convinced him that the murder was not dope related, even though
[McGarry] was an occasional user of cocaine. He said that he
heard "[Hanline]" and [Bischoff] were on the run and that persons
friendly to [McGarry] were looking for them. Robertson also said
that a friend of Hot Rod [aka "D"], named Chuck [Blaylock], had
received a call from [Bischoff] saying that she was not responsible
for what had happened to [McGarry]—this call supposedly was
received Sunday night.

10 ... Attorney Robertson, throughout this investigation has acted
11 as an intermediary between the biker type street people and
12 ourselves. He feels his position is tenuous. These people do not
13 want to talk to the police and would be upset if they knew that he
14 was. Robertson, however, wants us to find [Bischoff] and
15 "[Hanline]" before the motorcycle people do. The most significant
information that he has furnished is that he was told by Hot Rod
that on Sunday evening, before the body was discovered, Chuck
Blaylock received a telephone call from [Bischoff]. [Bischoff] was
crying and said that she was not responsible for what happened.

16 ... Attorney Robertson told me that he did not know if Chuck
17 was being honest with me, and that one of the reasons that he had
contacted [McGarry's] roommate was the information from Chuck
as related by Hot-Rod, that [McGarry] was already dead.

18 Ventura County Sheriff's Department Follow-up and Continuation Report
19 (Undated) by Ventura County Sheriff's Department Officer Martin McCoy, pp.
20 4-7.

- 21 57. On December 9, 1978, Robertson arranged for Bischoff to return to California
22 to talk to investigators. Robertson had a first class ticket waiting for Bischoff at
23 the airport. During the flight, Bischoff drank champagne, wine, whisky, beer,
24 and a couple of Bloody Marys.
- 25 58. When Bischoff arrived at LAX, she was met by Robertson, Ventura County
26 Sheriff's Department Officer Martin McCoy, and another Sheriff's Department
27 employee. Robertson took Bischoff to a bar in the airport where she,
28 Robertson, and the Ventura County Sheriff's Department officers drank beer.

1 59. Robertson then drove Bischoff to the Sheriff's station. On the way, they stopped
2 again and Bischoff had another beer. During the drive, Robertson reiterated to
3 Bischoff that Hanline was responsible for MacGarry's death.

4 60. Thereafter, Bischoff sat down with Ventura County Sheriff's Department
5 Officers Martin McCoy and Richard Rodriguez and Ventura County Deputy
6 District Attorney Jay Johnson for a witness interview. Bruce Robertson was
7 present for the interview.

8 61. During that interview, Robertson stated repeatedly, and on the record, that he
9 was not acting as Bischoff's attorney. In spite of this, Robertson repeatedly
10 stopped the questioning of Bischoff and pulled her out of the room to confer
11 with her. At one point, Robertson told the officers, "Don't get into that area."

12 62. Investigators capitulated to Robertson's requests, stating on the record that
13 "apparently Bruce doesn't want me to get into that aspect, so we'll skip over
14 that." At Robertson's repeated prompting, Bischoff ultimately implicated
15 Hanline in the murder.

16 **E. The Prosecution of Michael Hanline**

17 63. Before arraignment, Hanline's original trial attorney, Jack Janis, told Deputy
18 District Attorney Michael Schwartz that Robertson had threatened Janis in a
19 successful effort to get him to drop Hanline as a client. Robertson told Janis that
20 the Hell's Angels "didn't want no shit" on the murder, and that the Angels
21 wanted Hanline to "sit in his own mud" for the case. Janis related this threat to
22 Ventura County Deputy District Attorney Michael Schwartz, who did not
23 confront Robertson or follow up in any way.

24 1. Gail Stanley

25 64. Gail Stanley was J.T. McGarry's wife. They were married in 1961. Stanley and
26 McGarry had three children together, and moved to Ventura around 1973.

27 65. Shortly after the two moved to Ventura, Stanley and McGarry separated; they
28 grew apart after McGarry began hanging out and associating with motorcycle

gangs like the Hells Angels. Stanley was also scared of the people involved with McGarry's work for Easy Rider Magazine and Paisano Publications—specifically Joe Teresi and an individual identified as witness “A”—because the magazine and its employees were involved in the drug trade and the mafia.

66. Although the two were separated, Stanley and McGarry still saw and spoke to each other regularly up until the time of his disappearance and death.

67. Two weeks before his death, McGarry came by Stanley's house to speak with her. McGarry was scared, worried, and agitated; it was obvious to Stanley that he was afraid of what would happen to him if he stayed in town. McGarry told Stanley that he had saved up some money, and that the two of them, and their children, could leave and start a new life somewhere else.

68. McGarry specifically told Stanley that he had to escape from Easy Rider, and had to get away from the people he worked with at the magazine.

69. After McGarry's death, Paisano Publications—Joe Teresi and witness “A”—paid for all of the expenses associated with McGarry's funeral and burial, and arranged a wake for McGarry attended by hundreds of bikers and Hells Angels.

70. Around the same time funeral arrangements were being made by Paisano, and less than a week after McGarry's death, Stanley received a visit from Sterling Holt, McGarry's roommate, and “Hot Rod,” a local biker.¹ Holt and witness “D” took Stanley to meet Bruce Robertson, who they said was taking care of the legal issues surrounding McGarry's alias and his Social Security benefits. As noted in note 1, McGarry was an alias; his real name was Michael Mathers. McGarry created the alias, got a social security card, and began holding himself out as McGarry shortly after he moved to Ventura.

71. Robertson took care of all the legal issues surrounding McGarry's funeral

¹“Hot Rod” was also a client of Robertson's, and was named in the undated report (later consolidated with other reports to comprise the eight-page report) written by Ventura County Sheriff's Department Officer Martin McCoy.

1 arrangements, including Stanley's Social Security issues, the burial plot, and the
2 burial. He did not charge Stanley for his legal services.

3 72. Stanley remembered that Robertson was dependent on cocaine and was very
4 scared around this time. Holt and Hot Rod told Stanley that Robertson owed
5 a lot of money to someone, and Stanley understood it to mean that Robertson
6 owed money to people in the cocaine trade.

7 73. Despite the fact Stanley was known as a potential witness due to her marriage,
8 knowledge, and close relationship with McGarry, the Ventura County Sheriff's
9 Department—and specifically, Ventura County Sheriff's Department Officer
10 Martin McCoy—never interviewed Stanley during the investigation into the
11 McGarry murder.

12 74. In fact, no authorities contacted Stanley at all at any point in the investigation of
13 the case. It was not until Stanley called Ventura County Deputy District Attorney
14 Louis Samonsky during trial to volunteer her testimony that she ever spoke to
15 any authorities about the case.

16 75. During the trial, Samonsky and Ventura County Sheriff's Department Officer
17 Martin McCoy met with Stanley to discuss what she knew regarding the case.

18 76. McCoy and Samonsky told Stanley that they were desperate to get Hanline, and
19 that they were frustrated because they believed Hanline had gotten away with
20 other murders in the past on technicalities, and that "they had to get him this
21 time. He'd walked too many times." Indeed, McCoy and Samonsky admitted
22 to Stanley they were "desperate" to convict Hanline, and indeed so desperate
23 that they were using a different version of what they believed had actually
24 happened.

25 77. During this conversation, McCoy and Samonsky told Stanley they knew
26 McGarry had been embezzling money from Paisano Publications in the months
27 shortly before his death, and that Paisano—witness "A" and Joe Teresi—knew
28 about the embezzlement. They told Stanley that Paisano had killed McGarry to

1 make an example of him and to stop the embezzlement.

2 78. Stanley remembered that McCoy and Samonsky believed the embezzlement
3 scheme was the real reason McGarry was killed. They told Stanley they were
4 proceeding with a "love triangle" theory involving Mary Bischoff because of their
5 desperation to convict Hanline.

6 79. When Stanley heard this information about McGarry's embezzlement, she
7 remembered the conversation she had had with McGarry two weeks before his
8 death. She told McCoy and Samonsky about that conversation because she
9 thought it would be relevant to their case. Nevertheless, Samonsky and McCoy
10 explained to her they were going with the theory that Hanline killed McGarry
11 because the two were in a love triangle with Mary Bischoff.

12 2. Mary Bischoff

13 80. The prosecution's case hinged almost entirely on Mary Bischoff. Indeed,
14 Ventura County Deputy District Attorney Louis Samonsky admitted Bischoff
15 was the "star witness" in the case.

16 81. Bischoff's testimony was incredibly suspect. She was under the influence of
17 drugs during the trial, and the judge had to adjourn the proceedings for that
18 reason.

19 82. Bischoff's testimony was also entirely directed by Robertson, despite the fact he
20 repeatedly stated he was not acting as Bischoff's attorney, and these facts were
21 known by Ventura County Sheriff's Department Officer Martin McCoy. When
22 Bischoff was in jail before Mr. Hanline's trial, she told McCoy that if he did not
23 get her out of jail, she would take the witness stand and testify that Robertson had
24 told her what to say. In addition, Cain DeWitt, a prosecution witness and one
25 of Robertson's numerous clients, testified that Bischoff told him that Robertson
26 was telling her what to say.

27 **F. Suppressed *Brady* Material**

28 1. The Fourteen-Page Report

1 83. Over the course of six months—beginning October 23, 1978, shortly before the
2 murder, and concluding May 9, 1979, well after charges were filed against Mr.
3 Hanline—a series of reports were written by various law enforcement
4 investigators, namely Los Angeles Narcotics Investigators William Marsden and
5 Danny Lott, Richard McKenna, and Ventura County Sheriff’s Department
6 Officer Martin McCoy. Together they compose a report later referred to as “the
7 fourteen-page report.”

8 84. The Office of the Ventura County District Attorney has conceded that the
9 fourteen-page report constituted *Brady* material, and that the failure to turn the
10 report over to Mr. Hanline violated his Constitutional rights to Due Process.

11 85. The fourteen-page report documents the investigation by Ventura County
12 Sheriff’s Department Officer Martin McCoy into a series of phone calls relating
13 to a group of cocaine dealers in the area. These individuals—Larry New, Chris
14 Kuen, and Jim Foster (also known as William Stymus)—were clients of Bruce
15 Robertson, and Robertson is also named in the fourteen-page report as a
16 potential suspect.

17 86. The fourteen-page report describes how a witness overheard these individuals
18 talking about McGarry’s murder and implicating themselves, not Mr. Hanline,
19 in the murder.

20 87. The report also documents how Ventura County Sheriff’s Department Officer
21 Martin McCoy took this information directly to Bruce Robertson, despite the
22 fact Robertson was named by the witness in the report, making him a potential
23 suspect, and despite the fact the individuals were Robertson’s clients.

24 88. After a series of conversations and phone calls, which the report documents,
25 Robertson informed McCoy that—based on Robertson’s own, independent
26 investigation—McGarry’s murder was not related to drugs, and Robertson’s
27 clients did not commit the murder.

28 89. The report also contains the following statement from Ventura County Sheriff’s

1 Department Officer Martin McCoy, plainly noting how completely McCoy had
2 turned over the investigation and decision-making to Robertson and his
3 confederates:

4 [i]f . . . this furnished information fits any defense theory, I feel an
5 obligation to report that I have been advised, specifically by
6 Robertson and vaguely by Stymus, that contact and subpoenas by
the defense or myself with Larry New and Chris Kuen will create
a "blood bath" and result in death to any suspected informants.

7 90. On June 28 and 29, 1979, Ventura County Superior Court Judge Ben Ruffner
8 held in camera, ex parte hearings regarding the discovery of the fourteen-page
9 report. In these hearings, Ventura County Deputy District Attorney Louis
10 Samonsky requested that the fourteen page report not be disclosed to the
11 defense.

12 91. In support of this claim, the District Attorney presented attorney Bruce
13 Robertson to make an oral proffer to Judge Ruffner concerning the report and
14 what he knew about the murder.

15 92. Robertson explained to Judge Ruffner how he found out about McGarry's
16 murder; he had previously given a version of this story to Ventura County
17 Sheriff's Department Officers Martin McCoy and Richard Rodriguez. However,
18 Robertson's story in front of Judge Ruffner differed significantly on certain key
19 points. For example, Robertson had previously told McCoy *he (Robertson)*
20 *contacted Holt* shortly after McGarry disappeared, and convinced Holt to fly
21 down from Oregon to investigate. In the in camera hearing, Robertson testified
22 Holt *told him* McGarry was dead.

23 93. Importantly, the report—and the in camera testimony before Judge Ruffner
24 relating to it—details how Bruce Robertson knew about the murder before
25 anyone else did, and tried to protect his friends and clients from becoming
26 suspects in the investigation. The report implicated not only Robertson's clients
27 in the murder, but Robertson himself. Robertson made desperate pleas in front
28 of Judge Ruffner to seal all of this material, even making the incredible claim that

1 Los Angeles Police officers had fabricated the information.

2 94. Robertson's inconsistent and incriminating statements were known to Ventura
3 County authorities, including Ventura County Sheriff's Department Officer
4 Martin McCoy and Ventura County Deputy District Attorney Louis Samonsky.
5 Despite Judge Ruffner's order to turn over these statements, they refused.

6 2. The Eight-Page Report

7 95. Another report, later named "the eight-page report," documents the investigation
8 by Ventura County Sheriff's Department Officer Martin McCoy into a phone
9 call made by "A," who was a confidential informant, to the Los Angeles Sheriff's
10 Department.

11 96. The Office of the Ventura County District Attorney has conceded that the eight-
12 page report constituted *Brady* material, and that the failure to turn the report
13 over to Mr. Hanline violated his Constitutional rights to Due Process.

14 97. Witness "A" ran Paisano Publications, which produced a magazine called Easy
15 Rider in 1978. Bischoff and McGarry worked for "A" setting up and running
16 motorcycle swap meets in 1978. As noted ante, in addition to running the swap
17 meets, McGarry would skim some of the money earned from the swap meets for
18 himself. Bischoff was present when McGarry embezzled these funds and also
19 skimmed money from Paisano with McGarry.

20 98. According to the eight-page report, on November 26, 1978 (approximately two
21 weeks after the murder), "A" called the Los Angeles Sheriff's Department and
22 left a message stating he had information regarding the murder of McGarry. "A"
23 stated that the prosecution witness, Mary Bischoff, had called "A" that day to give
24 him information about the murder.

25 99. Many of the facts "A" stated he got from Bischoff were inconsistent with her
26 police interview and eventual trial testimony. These facts were not public
27 knowledge at the time of the phone call; the only way "A" could have gotten the
28 information was either through Bischoff or through his own involvement in the

1 crime.

2 100. The report later became the subject of two ex parte, in camera hearings in front
3 of Judge Robert Soares during Mr. Hanline's trial. On January 19, 1979, and
4 January 22, 1979, Judge Soares heard argument from Ventura County Deputy
5 District Attorney Louis Samonsky as to why Samonsky believed the eight-page
6 report should not be turned over to the defense. Also present at these hearings
7 was Ventura County Sheriff's Department Officer Martin McCoy and Bruce
8 Robertson.

9 101. Samonsky explained to the court that "A" and his family would be in jeopardy
10 if his identity as a confidential informant were revealed. He therefore proposed
11 that Ventura County Sheriff's Department Officer Martin McCoy "re-interview"
12 witness "A" and prepare another report. This new report would contain the
13 information from the eight-page report, but would be written in such a way that
14 it appeared McCoy was the one to initiate the contact. In this way, "A's" identity
15 as an informant would be kept confidential, because it would appear as though
16 McCoy had simply followed a lead and spoken to "A" as a result of McCoy's
17 independent investigation.

18 102. In order to accomplish this, Samonsky proposed that McCoy simply ask
19 Bischoff to confirm she talked to "A," and that thereafter McCoy could interview
20 "A" to get the information from him without compromising his identity as an
21 informant. Judge Soares agreed that this was the first step in determining
22 whether the alternate report could be drafted:

23 It appears to me that there is absolutely nothing the court can do
24 until two important things have been done by you and your
25 investigating team, and that is whether or not Mary is going to say
who the person is she talked to.

26 103. Samonsky repeatedly attempted to work around Judge Soares's order to turn
27 over the eight-page report or the information it contained. For example, at one
28 point Samonsky asked whether the Court was allowing him to refuse to turn over

1 the information if he did not re-interview Bischoff:

2 MR. SAMONSKY: . . . Is the Court saying that in the alternative,
3 the People must write a report – a report that reflects information
4 “A” gave to you today, or that the report is simply not discoverable,
5 if we don’t write one, and the information is not discoverable?
THE COURT: . . . I’m convinced that the law is not going to allow
[that].

6 104. Despite Samonsky’s reluctance, Judge Soares repeatedly ordered the
7 information contained in the eight page report to be turned over. The court
8 instructed Ventura County Sheriff’s Department Officer McCoy that he was
9 required to “get a good interview with [“A”]” and that “it be accurate,” and
10 further clarified that “I’m convinced that the law is not going to allow any longer
11 the – a non-discovery which is otherwise discoverable by just holding it in the
12 head of a police officer –.”

13 105. Despite the court’s order, Mary Bischoff later testified she had never been
14 interviewed by McCoy or anyone in law enforcement about whether she had
15 spoken to “A.”

16 106. More importantly, Bischoff later testified she had never spoken to “A” at any
17 time about the murder.

18 107. The inconsistencies between the statements made by “A” and Bischoff, as well
19 as Bischoff’s denial that she had spoken to “A,” show that the conversation “A”
20 related to police never occurred. “A” likely knew details of the murder because
21 he himself was involved, and called the police in an attempt to shift the blame to
22 Michael Hanline.

23 108. These discrepancies were known to Ventura County District Attorney Samonsky
24 and Ventura County Sheriff’s Department Officer Martin McCoy well before
25 they requested the report sealed.

26 109. The prosecution fought valiantly—and successfully—to prevent this second report
27 from coming to light because Samonsky knew Mary Bischoff never spoke to
28 “A.” Judge Soares specifically directed Samonsky and investigator McCoy to

1 create a second report, starting with asking Mary Bischoff to whom she had
2 spoken. Samonsky knew her answer would be that she had never spoken to "A,"
3 and Bischoff herself confirmed this in her evidentiary hearing testimony in 2008.
4 If Bischoff never spoke to "A," then the second report could not be created.
5 And indeed, no such report was ever given to the defense.

6 **G. Other Wrongdoing By the Defendants Discovered After the Conviction**

7 110. Koni Burgess was the last known person to see McGarry alive on November 10,
8 1978. In 1986, Burgess told investigators working for Plaintiff Michael Hanline
9 that she was at McGarry's house on the night he disappeared. An individual
10 whom Burgess knew as "Tree" and "Bruce" (later identified as Bruce Robertson)
11 came to McGarry's house; shortly thereafter, McGarry told Burgess he was
12 taking her to a bar near his house and leaving her there so that he and Robertson
13 could do some business. McGarry left her at the bar and went back to
14 Robertson.

15 111. Because they were being directed by Robertson in their investigation, Ventura
16 County investigators never interviewed Burgess, and never discovered
17 information implicating Robertson, specifically that Robertson was with McGarry
18 the last time he was seen alive. In fact, Ventura County officials exacerbated the
19 problem. In 1986, after being presented with the above information concerning
20 Burgess, authorities sent District Attorney Investigator Richard Haas to interview
21 Burgess in St. Louis, Missouri. Haas was formerly a police officer for the City
22 of Ventura, and had previously arrested Burgess at least once before, when she
23 was 11 years old. Not wanting to speak to Haas, Burgess recanted her prior
24 statements regarding Robertson. Ventura County Deputy District Attorney
25 Michael Schwartz used her recantation to oppose Hanline's request for relief in
26 1986, never confronting Robertson about what Burgess had originally said.

27 112. Because they never interviewed Burgess, investigators never uncovered evidence
28 that the prosecution had a flawed timeline. At trial, Deputy District Attorney

1 Louis Samonsky argued Hanline accomplished the murder between 7:00 p.m.
2 - 7:30 p.m. and 11:00 p.m. - 11:30 p.m. Hanline was a little more than an hour
3 from McGarry's house that evening and would have arrived at McGarry's house
4 between 8:00 p.m. and 8:30 p.m. Because Burgess was at McGarry's house
5 during this time, had Hanline been at McGarry's house, Burgess would have
6 seen Hanline.

7 113. Additionally, Burgess could have corroborated Hanline's defense at trial that he
8 could not have committed the murder because he had been injured shortly
9 before the incident. The prosecution had alleged he and his codefendant, Bo
10 Messer, had shot and killed McGarry, and thereafter moved the body to dispose
11 of it in Wheeler Gorge. Hanline's medical condition—resulting from a
12 motorcycle accident he suffered fewer than one month before the murder, and
13 necessitating the removal of his spleen—would have made it impossible for him
14 to have moved McGarry or even assisted Messer in doing so, contrary to the
15 prosecution's theory.

16 114. Burgess knew Hanline and saw him before and after the incident, and saw that
17 Hanline had been severely injured as a result of this motorcycle accident. Had
18 she been discovered, she would have corroborated the available medical
19 evidence with her own credible testimony.

20 115. Further, because they never interviewed Burgess, investigators never discovered
21 Robertson threatened Burgess during the investigation and trial. After the
22 murder, and before Hanline's trial, Burgess ran into Robertson at a bar.
23 Burgess's house had burned down, and she had been injured in the fire.
24 Robertson told Burgess that something worse would happen to her if she talked,
25 and directly threatened Burgess, saying, "You just keep your mouth shut or you
26 will end up like [McGarry]."

27 116. At some point after the trial, Ventura County Sheriff's Department Officer
28 Martin McCoy retired from the office. He joined the offices of Bruce Robertson

as a private investigator.

H. Participation, State of Mind, and Damages

117. All Defendants acted without authorization of law.

118. Each Defendant participated in the violations alleged herein, or directed the violations alleged herein, or knew of the violations alleged herein and failed to act to prevent them. Each defendant ratified, approved and acquiesced in the violations alleged herein.

119. As joint actors with joint obligations, each defendant was and is responsible for the failures and omissions of the other.

120. Each Defendant acted individually and in concert with the other Defendants and others not named in violating Plaintiff's rights.

121. Each Defendant acted with a deliberate indifference to or reckless disregard for an accused's rights for the truth in withholding evidence from the defense, and/or for the Plaintiff's right to a trial free from constitutional defect, and free of active concealment of material facts, and/or for the Plaintiff's right to due process of law.

122. As a direct and proximate result of the aforesaid acts, omissions, customs, practices, policies, and decisions of the Defendants, Plaintiff has suffered great mental and physical pain, suffering, anguish, fright, nervousness, anxiety, shock, humiliation, indignity, embarrassment, harm to reputation, and apprehension, which have caused Plaintiff to sustain damages in a sum to be determined at trial.

123. Due to the acts of the Defendants, Plaintiff has suffered, and continues to suffer, and is likely to suffer in the future, extreme and severe mental anguish as well as mental and physical pain and injury. For such injury, Plaintiff will incur significant damages based on psychological and medical care.

124. As a further result of the conduct of each of these Defendants, Plaintiff has lost past and future earnings in an amount to be determined according to proof at trial.

1 125. As a further result of the conduct of each of these Defendants, Plaintiff has been
2 deprived of familial relationships, including not being able to maintain a healthy
3 and intimate relationship with his wife, and to raise a family.

4 126. The aforementioned acts of the Defendants, and each of them, was willful,
5 wanton, malicious, oppressive, in bad faith and done with reckless disregard or
6 with deliberate indifference to the constitutional rights of the Plaintiff) entitling
7 Plaintiff to exemplary and punitive damages from each defendant other than
8 Defendant County of Ventura in an amount to be proven at the trial of this
9 matter.

10 127. By reason of the above described acts and omissions of Defendants, Plaintiff was
11 required to retain an attorney to institute and prosecute the within action, and to
12 render legal assistance to Plaintiff that he might vindicate the loss and impairment
13 of his rights, and by reason thereof, Plaintiff requests payment by Defendants of
14 a reasonable sum for attorney's fees pursuant to 42 U.S.C. § 1988.

15 //

16 //

FIRST CLAIM FOR RELIEF
DEPRIVATION OF CIVIL RIGHTS

42 U.S.C. § 1983

***BRADY* VIOLATIONS**

(Against Defendants Samonsky, McCoy, and Does 1 - 10)

128. Plaintiff realleges paragraphs 1 - 127, as well as any subsequent paragraphs in the Complaint, as if fully set forth herein.

129. Defendants Samonsky and McCoy and Does 1 - 10, while acting under color of law, deprived Plaintiff of his civil rights by violating his right to have material exculpatory evidence and information as required by *Brady v. Maryland*, 373 U.S. 83 (1963) (hereinafter *Brady* information) turned over to the Hanline defense.

130. The actions of each defendant in withholding evidence from the defense were done with deliberate indifference to or reckless disregard for Plaintiff's rights or for the truth.

131. The *Brady* violations asserted herein encompass, but are not limited to:

- a. Failing to turn over a fourteen-page report detailing how others were claiming responsibility for the murder, despite a specific court order directing the report to be disclosed;
- b. Failing to turn over an eight-page report detailing how one witness with a motive to kill McGarry had given facts and information about the circumstances of the murder, and had falsely claimed he had gotten the information from Mary Bischoff; and
- c. Failing to turn over the report described in subsection (b), above, despite a specific court order directing the report to be disclosed.

132. The constitutional source of the obligation to provide *Brady* information is primarily the due process clause of the Fifth and Fourteenth Amendments, and Plaintiff's due process rights were violated by the conduct alleged herein. Plaintiff

1 brings this claim as both a procedural and a substantive due process violation.
2 To the extent that any court were to conclude that the source of Plaintiff's right
3 to *Brady* information is a constitutional source other than due process (such as
4 the Fourth Amendment or Sixth Amendment right to a fair trial), this claim is
5 brought on those bases as well.

6 133. Defendants Samonsky and McCoy and the other Doe defendants were each
7 jointly and severally responsible to provide *Brady* information to the defense.
8 Each engaged in, knew or should have known of the unconstitutional conduct
9 alleged herein and failed to prevent it, which each had a responsibility to do, and
10 each ratified, approved or acquiesced in it.

11 134. As a result of the defendants' violations, and each of their violations of Mr.
12 Hanline's constitutional rights to have *Brady* information turned over to the
13 defense, Mr. Hanline was damaged as alleged above.

14 **SECOND CLAIM FOR RELIEF**

15 **JOINT ACTION/CONSPIRACY TO VIOLATE CIVIL RIGHTS**

16 **42 U.S.C. § 1985**

17 ***BRADY VIOLATIONS***

18 **(Against Defendants Samonsky, McCoy, and Does 1 - 10)**

19 135. Plaintiff realleges paragraphs 1 - 134, as well as any subsequent paragraphs
20 contained in the Complaint, as if fully set forth herein.

21 136. Defendants Samonsky, McCoy, and Does 1 - 10 were jointly and severally
22 responsible as investigators assigned to the Hanline case to share material
23 information with each other, and to ensure that *Brady* information was turned
24 over to the defense.

25 137. Defendants Samonsky, McCoy, and Does 1 - 10, acting under color of state law,
26 acted in concert, conspired and agreed with each other and/or with Bruce
27 Robertson to deprive Plaintiff of rights, privileges, or immunities secured by the
28 Constitution and laws of the United States, in particular the right to have *Brady*

1 information of which they were aware provided to the defense, as elaborated
2 above. Each failure to provide *Brady* information, as well as other actions
3 related to them, constitutes an overt act in furtherance of said conspiracy.

4 138. Alternatively, as joint actors with joint obligations, each of them was and is
5 responsible for the failures and omissions of each other.

6 139. As a result of the defendants' violations, and each of their violations of Mr.
7 Hanline's constitutional rights to have *Brady* information turned over to the
8 defense, Mr. Hanline was damaged as alleged above.

9 **THIRD CLAIM FOR RELIEF**

10 **DEPRIVATION OF CIVIL RIGHTS**

11 **42 U.S.C. § 1983**

12 **FALSE EVIDENCE VIOLATIONS**

13 **(Against Defendants Samonsky, McCoy, and Does 1 – 10)**

14 140. Plaintiff realleges paragraphs 1 – 139, as well as any subsequent paragraphs
15 contained in the Complaint, as if fully set forth herein.

16 141. Defendants McCoy and Does 1 – 10 were jointly and severally responsible as
17 investigators assigned to the Hanline case to share material information with each
18 other, and to ensure that any witness information was true, accurate, credible,
19 and reliable.

20 142. Defendants Samonsky, McCoy, and Does 1 – 10, while acting under color of
21 law, deprived Plaintiff of his civil rights, more particularly, his right to due
22 process of law, by providing false evidence in reports and statements, refusing to
23 turn over reports, improperly withholding the names of witnesses and the
24 information they provided, improperly influencing live testimony, improperly
25 influencing witnesses and fabricating and concealing evidence, and deprived Mr.
26 Hanline of liberty because they set in motion a reasonably foreseeable chain of
27 events that led to the presentation of false evidence at Plaintiff's criminal trial, his
28 conviction and incarceration.

1 143. Each Defendant knew or should have known the evidence was false, and the
2 defendant's conduct was done with deliberate indifference to and/or reckless
3 disregard of Plaintiff's rights or for the truth.

4 144. Each defendant deliberately mischaracterized the testimony of multiple
5 witnesses, including Mary Bischoff, Gail Stanley, Bruce Robertson, Sterling Holt,
6 Martin McCoy, Richard Rodriguez, and Ted LeBlanc. Defendants knew or
7 should have known that these witnesses would, and were known to, testify falsely
8 in Plaintiff's case. Defendants Samonsky and McCoy deliberately concealed and
9 fabricated evidence that led to a false and wrongful conviction. The false
10 evidence asserted herein encompasses the conduct alleged in paragraphs 1 -
11 139.

12 145. As noted ante and post, Defendants Samonsky, McCoy and Does 1 - 10, acting
13 under color of state law, deprived Plaintiff of rights, privileges, or immunities
14 secured by the Constitution and laws of the United States, in particular the right
15 to have a trial free from constitutional defect, and free from the introduction of
16 false evidence.

17 146. Each act of improper influence, as well as other actions related to them,
18 constitutes an overt act in furtherance of said conspiracy.

19 147. Alternatively, as joint actors with joint obligations, each of them was and is
20 responsible for the failures and omissions of each other.

21 148. Defendants Samonsky, McCoy and Does 1 - 10 knew or should have known
22 that evidence set forth above, was false, and that the witnesses were providing
23 false evidence.

24 149. The constitutional source against using false evidence is primarily the due
25 process clause of the Fifth and Fourteenth Amendments, and Plaintiff's Due
26 Process rights were violated by the conduct alleged herein. Plaintiff brings this
27 claim as both a procedural and a substantive due process violation. To the
28 extent that any court were to conclude that the source of Plaintiff's right to right

1 to be free from concealed and fabricated evidence that led to a false and
2 wrongful conviction, is any constitutional source other than due process (such as
3 the Fourth Amendment or Sixth Amendment right to a fair trial), this claim is
4 brought on those bases as well.

5 150. Defendants Samonsky, McCoy, and the other Doe defendants were each jointly
6 and severally responsible to not use false evidence against Mr. Hanline.

7 151. Each engaged in, knew or should have known of the unconstitutional conduct
8 alleged herein and failed to prevent it, which each had a responsibility to do, and
9 each ratified, approved or acquiesced in it.

10 152. As a result of the defendants' violations, and each of their violations of Mr.
11 Hanline's constitutional rights to have a fair trial free from constitutional defect
12 and free from the introduction of false evidence, Mr. Hanline was damaged as
13 alleged above.

14 **FOURTH CLAIM FOR RELIEF**

15 **JOINT ACTION/CONSPIRACY TO VIOLATE CIVIL RIGHTS**

16 **42 U.S.C. § 1985**

17 **FALSE EVIDENCE VIOLATION**

18 **(Against Defendants Samonsky, McCoy and Does 1 - 10)**

19 153. Plaintiff realleges paragraphs 1 - 152, as well as any subsequent paragraphs
20 contained in the Complaint, as if fully set forth herein.

21 154. Defendants Samonsky, McCoy and Does 1 - 10, were jointly and severally
22 responsible to not use false evidence in the prosecution of Plaintiff Michael
23 Hanline.

24 155. Defendants Samonsky, McCoy and Does 1 - 10, acting under color of state law,
25 acted in concert, conspired and agreed with each other and/or Bruce Robertson
26 to deprive Plaintiff of rights, privileges, or immunities secured by the
27 Constitution and laws of the United States, in particular the right not to have false
28 evidence used in the Hanline case, as elaborated above. The use of false

1 evidence, as well as other actions related to the use of such evidences, constitutes
2 an overt act in furtherance of said conspiracy. Alternatively, as joint actors with
3 joint obligations, each of them was and is responsible for the failures and
4 omissions of each other.

5 156. As a result of the defendants' violations, and each of their violations of Mr.
6 Hanline's constitutional rights to have a fair trial free from constitutional defect
7 and free from the introduction of false evidence, Mr. Hanline was damaged as
8 alleged above.

9 **FIFTH CLAIM FOR RELIEF**
10 **DEPRIVATION OF CIVIL RIGHTS**
11 **42 U.S.C. § 1983**
12 **SUPERVISORIAL LIABILITY**

13 **(Against Defendants McCoy, County of Ventura, and Does 1 - 10)**

14 157. Plaintiff realleges paragraphs 1 - 156, as well as any subsequent paragraphs
15 contained in the Complaint, as if fully set forth herein.

16 158. During the course and scope of the Hanline investigation, Defendant McCoy was
17 the lead detective and supervisor to Ventura County Sheriff's Department
18 Officer Richard Rodriguez, and supervised Rodriguez on the Hanline
19 investigation. Defendant McCoy was an experienced detective, and was
20 obligated to ensure that Defendant Rodriguez properly performed his duties as
21 an investigator, which would also include ensuring that Mr. Hanline's
22 constitutional rights were protected.

23 159. Further, Defendant County of Ventura was responsible for the actions of its
24 employees, including Defendant McCoy, performed within the course of the
25 employees' terms of employment. As such, Defendant County of Ventura was
26 obligated to ensure that Defendant Rodriguez properly performed his duties as
27 an investigator, which would also include ensuring that Mr. Hanline's
28 constitutional rights were protected.

1 160. On the weekend of the murder, beginning on or about November 10, 1978,
2 Defendant McCoy was training and supervising Richard Rodriguez, who was less-
3 experienced detective on the case. During the entirety of the investigation of this
4 case, Defendant McCoy was Richard Rodriguez's supervisor, partner, and
5 trainer. Upon information and belief, Defendants McCoy and Doe, supervisors
6 within the Ventura County Sheriff's Department who were responsible for
7 monitoring Rodriguez's performance and conduct as a Detective in this
8 investigation, were on notice of Rodriguez's lack of experience and training as a
9 homicide Detective. Despite this responsibility, Defendants failed to take
10 adequate steps to correct Rodriguez's failures through training or supervision.

11 161. Upon information and belief, Richard Rodriguez received minimal discipline,
12 training, and supervision, which level was grossly insufficient to address the inept,
13 inadequate, and deceitful investigation conducted in the Hanline case.

14 162. The inept, inadequate, and deceitful investigation was a highly predictable or
15 plainly obvious consequence of the inadequate training and lack of meaningful
16 control or supervision of Richard Rodriguez.

17 163. Defendant McCoy, and Doe supervisors 1 - 10, acting within the course and
18 scope of their employment had a duty to assure the competence of their
19 employee/agents, including Richard Rodriguez and Does 1 - 10, but breached
20 their duty and were negligent in the performance of their duties to select, train,
21 review, supervise, evaluate competency, and retain Rodriguez and other
22 employee/agents. This breach of the duty of careful selection, training, review,
23 supervision, periodic evaluation of the competency, and retention of such law
24 enforcement officers and/or employees and/or agents created an unreasonable
25 risk of harm to persons such as Plaintiff.

26 164. Defendant McCoy, and Doe supervisors 1 - 10 knew or should have known that
27 Richard Rodriguez was unfit and/or incompetent to investigate the homicide due
28 to his lack of experience unfitness and/or incompetence. This created a

1 particular risk to others. The negligence of Defendant McCoy and Doe
2 supervisors 1 – 10 in the supervision and training of Richard Rodriguez was a
3 substantial factor in the harm caused to Plaintiff by Rodriguez.

4 165. Defendant McCoy, and Doe supervisors 1 – 10 breached their duty of care to
5 observe, report, monitor, and control the investigation by Detective Rodriguez
6 and other employee/agents.

7 166. As a direct and legal result of the aforesaid negligence, carelessness, and
8 unskillfulness of Defendant McCoy, and Doe supervisors 1 – 10, and each of
9 them, and as a result of their breach of duty of care to Plaintiff, Plaintiff suffered
10 the damages as alleged herein.

11 **SIXTH CLAIM FOR RELIEF**

12 **DEPRIVATION OF CIVIL RIGHTS**

13 **42 U.S.C. § 1983**

14 ***MONELL VIOLATIONS***

15 **(Against Defendant County of Ventura)**

16 167. Plaintiff realleges paragraphs 1 – 166, as well as any subsequent paragraphs
17 contained in the Complaint, as if fully set forth herein.

18 168. Municipal corporations may be named in a lawsuit for deprivation of
19 Constitutional rights, as this lawsuit claims. *Monell v. Dept of Social Services*,
20 436 U.S. 658, 701 (1978). A municipality is liable when the constitutional injury
21 to the plaintiff resulted from the implementation or “execution of a government’s
22 policy or custom, whether made by its lawmakers or by those . . . said to
23 represent official policy.” *Monell, supra*, 436 U.S. at 694. Municipalities may
24 also be liable by failing to create, promote, or promulgate policies and practices
25 which would protect the Constitutional rights of individuals. *City of Canton v.*
26 *Harris*, 489 U.S. 378 (1989).

27 169. Plaintiff is informed and believes, and thereon alleges that, at all times herein
28 mentioned, Defendant County of Ventura, and Does 1 – 10, with deliberate

1 indifference, and conscious and reckless disregard to the safety, security, and
2 constitutional and statutory rights of Plaintiff, engaged in the unconstitutional
3 conduct and omissions as is specifically elaborated in paragraphs 1 - 163, above,
4 which consist of the following customs and/or policies:

- 5 a. The knowing presentation of false evidence by officers;
- 6 b. The deliberately indifferent presentation of false evidence by officers;
- 7 c. The presentation of false evidence by deputies and officers in reckless
8 disregard for the truth or the rights of the accused;
- 9 d. Officers' failure to provide exculpatory evidence to the defense;
- 10 e. Failing to adequately train, supervise and control its officers in the
11 investigation and questioning of witnesses and confidential informants,
12 and thereby failing to prevent the use of fabricated testimony by witnesses;
- 13 f. Failing to adequately train, supervise and control its officers to disclose to
14 the defense all exculpatory and impeachment information, including
15 *Giglio v. United States*, 405 U.S. 150 (1972) and *Brady* information,
16 which would include impeachment evidence of witnesses, exculpatory
17 evidence, evidence of third-party culpability, and alternative theories
18 which would support the defense;
- 19 g. Failing to adequately discipline officers involved in dishonesty or
20 otherwise abusing their authority;
- 21 h. Condoning and encouraging officers in the belief that they can violate the
22 rights of person such as Mr. Hanline with impunity, and that such conduct
23 will not adversely affect their opportunities for promotion and
24 employment benefits; and
- 25 i. Condoning and encouraging the fabrication of evidence, including but not
26 limited to the filing of materially false police reports, concealing material
27 evidence and improperly influencing witnesses, the use of techniques to
28 influence or shape witness testimony, and/or making false statements to

1 the prosecutor to obtain the filing of false charges and obtaining false
2 convictions.

3 170. Plaintiff is informed and believes that the Ventura County Sheriff's Department
4 had no established or clear policy regarding the following issues pertaining to the
5 disclosure of exculpatory evidence pursuant to its obligations under *Brady v.*
6 *Maryland*:

- 7 a. Maintaining files and information regarding exculpatory and third-party
8 suspect information;
- 9 b. Maintaining information received from confidential informants, and
10 properly drafting reports on exculpatory information received by
11 informants;
- 12 c. Ensuring that information regarding exculpatory information received by
13 informants was provided to the defense in the case, regardless of whether
14 the informant was to testify;
- 15 d. Fully and completely documenting law enforcement personnel's
16 interactions with informants;
- 17 e. Ensuring that the information and testimony provided by informants was
18 reliable;
- 19 f. Training law enforcement personnel in handling informant information
20 and providing it to the defense in the case, and in disclosing or refraining
21 to disclose informant information to the defense in the case, regardless of
22 whether the informant was to testify; and
- 23 g. Supervising law enforcement personnel in the provision of informant
24 information to the defense, regardless of whether the informant was to
25 testify.

26 171. Plaintiff is informed and believes that to the extent the Ventura County Sheriff's
27 Department had policies regarding the issues set out in the foregoing paragraph,
28 the policies were not known to or implemented by law enforcement personnel

1 in cases in which an informant was involved in a case.

2 172. Because the policies, practices and customs set forth in the foregoing paragraphs
3 meant that certain exculpatory, material information did not reach the defense,
4 and because the information was both exculpatory and pointed to the culpability
5 of third parties, these policies, practices and customs directly deprived Plaintiff
6 Hanline of a fair trial.

7 173. In addition, Plaintiff is informed and believes that the Ventura County Sheriff's
8 Department had no established or clear policy regarding the following issues
9 pertaining to the disclosure of exculpatory evidence and impeachment material:

- 10 a. Ensuring that all law enforcement personnel complied with the
11 requirements of due process, including those set out in *Brady v.*
12 *Maryland*, 373 U.S. 83 (1963);
- 13 b. Ensuring that law enforcement personnel, whether through inadvertence
14 or design, did not fail to provide information to the defense which was
15 either exculpatory, impeaching, or pointed to the culpability of third
16 parties;
- 17 c. Fully and completely documenting law enforcement personnel's
18 interactions with witnesses involved in a case;
- 19 d. Training law enforcement personnel to provide to the defense
20 information that is exculpatory, impeaching, or pointed to the culpability
21 of third parties;
- 22 e. Supervising law enforcement personnel in the provision of exculpatory
23 identification information to the defense.

24 174. Plaintiff is informed and believes that to the extent the Ventura County Sheriff's
25 Department had policies regarding the issues set out in the foregoing paragraph,
26 the policies were not implemented.

27 175. The actions and inactions of the Ventura County Sheriff's Department set forth
28 in the preceding paragraphs were known or should have been known to the

1 policy makers responsible for the Ventura County Sheriff's Department and
2 occurred with deliberate indifference to either the recurring constitutional
3 violations elaborated above, and or to the strong likelihood that constitutional
4 rights would be violated as a result of failing to train, supervise or discipline in
5 areas where the need for such training was obvious.

6 176. The actions and omissions of the Ventura County Sheriff's Department set forth
7 in the preceding paragraphs were a driving force behind the violations of Mr.
8 Hanline's constitutional rights as set forth in this complaint.

9 177. Defendant County of Ventura had a duty to create a system in which information
10 pertaining to witnesses and confidential informants, including Bruce Robertson
11 and witness "A," would be disseminated to the defense, regardless of whether or
12 in what form the witness was to testify. Deputy District Attorney Michael
13 Schwartz prosecuted Mr. Hanline's preliminary hearing, and Deputy District
14 Attorney Louis Samonsky prosecuted Mr. Hanline's trial. The County of
15 Ventura's failure to create such a system directly resulted in the defense having
16 no access to vital exculpatory evidence, impeachment evidence, and evidence of
17 third-party culpability.

18 178. Plaintiff is informed and believes that based on the County's failure to create a
19 system in which information pertaining to witnesses and confidential informants
20 would be shared among personnel, would be able to be accessed by personnel,
21 and would be shared with the defense before and during the prosecution of the
22 case, and the failure to train law enforcement personnel to disseminate
23 information pertaining to such witnesses, the County of Ventura had a pattern
24 and practice of permitting witnesses to testify falsely at trial in a way which
25 portrayed them as disinterested witnesses with no motivation to testify, when in
26 truth and fact, these witnesses:

- 27 a. Had specific and total knowledge of facts of the murder, facts which could
28 not have been known unless they were present during the murder or

1 themselves participated in the murder;

2 b. Lied about how they knew of these facts, representing instead that other
3 witnesses (specifically, witness Mary Bischoff) had told them these facts;

4 c. Had specific and clear motivations to point the investigation away from
5 the true perpetrators, either because (as in the case of Bruce Robertson)
6 they were associated with or represented the true perpetrators, or because
7 (as in the case of Joe Teresi, witness "A," Larry New, Chris Kuen, and Jim
8 Stymus) they were named as being involved in the murder; and

9 d. Had specific and clear motivations to commit the crime, as the victim, J.T.
10 McGarry, had been embezzling from and/or owed money to witnesses Joe
11 Teresi, witness "A," Larry New, Chris Kuen, and Jim Stymus.

12 179. Plaintiff is informed and believes that, based on the County's failure to create a
13 system in which information pertaining to witnesses would be provided to the
14 defense, and because of the County's failure to train and supervise law
15 enforcement personnel to disseminate information pertaining to the defense, the
16 County of Ventura had a pattern and practice of using unreliable testimony of
17 witnesses to secure criminal convictions, knowing that such testimony was false,
18 or made in reckless disregard to the falsity of the testimony.

19 180. The actions and inactions of the Ventura County Sheriff's Department set forth
20 in the preceding paragraphs were known or should have been known to the
21 policy makers responsible for the Ventura County Sheriff's Department and
22 occurred with deliberate indifference to either the recurring constitutional
23 violations elaborated above, and/or the strong likelihood that constitutional rights
24 would be violated as a result of failing to train, supervise, or discipline in areas
25 where the need for such training and supervision was obvious.

26 181. The actions of the Ventura County Sheriff's Department set forth herein were
27 a motivating force behind the violations of Mr. Hau-line's constitutional rights as
28 set forth in the Complaint.

182. As a direct and proximate result of Defendant County of Ventura's acts and omissions, condoning, encouraging, ratifying and deliberately ignoring the pattern and practice of Defendants Samonsky, McCoy and Does 1 - 10, Plaintiff sustained injury and damage.

183. As a result of defendants', and each of their violations of Mr. Hanline's constitutional rights as set forth herein, Mr. Hanline was damaged as alleged above.

WHEREFORE, Plaintiff, Michael Ray Hanline, requests relief on his own behalf as follows, and according to proof, against each Defendant:

1. General and compensatory damages in any amount according to proof;
2. Special damages in any amount according to proof;
3. Exemplary and punitive damages against each Defendant, except the County of Ventura, in an amount according to proof;
4. Cost of suit, including attorneys' fees, under 42 U.S.C. § 1988; and,
5. Such other relief as may be warranted or as it just and proper.

JURY DEMAND

Trial by jury of all issues is demanded.

Respectfully submitted,

Dated: 11/11/15



JAN STIGLITZ
Attorney for Plaintiff
MICHAEL RAY HANLINE